

REMARKS

Applicant has corrected the inventor's name, i.e., removed "*et al.*" from the end of the inventor's name, per the Examiner's kind suggestion.

Applicant submits that Francis is not prior art under 35 U.S.C. § 102. Thus, the rejection in the Final Office Action dated March 3, 2005 based on § 102(e) is improper and should be withdrawn. Section 102(e) precludes the grant of a patent where a patent is "granted on an application for patent another filed in the United States *before the invention by the applicant ...*" (emphasis added). The accompanying Supplemental Rule 131 Declaration clearly establishes that applicant reduced to practice the referenced invention prior to August 24, 2000 filing date of the Francis patent. In particular, by referencing specific page numbers in the attached Exhibits B and C, which correspond to the elements of independent claim 1, applicant's Supplemental Declaration clearly sets forth facts Applicant is relying on to show prior completion of his invention. Moreover, the document attached as Exhibit C to the Supplemental Declaration clearly establishes applicant's reduction to practice. Exhibit C is a document which describes version 1.1 of the New Component Process (i.e., applicant's invention).

Accordingly, contrary to the Examiner's assertion, applicant respectfully submits that no proof of the due diligence is necessary since applicant (the first inventor) has reduced its invention to practice prior to Francis' (the second inventor) constructive reduction to practice (i.e., August 24, 2000). See MPEP 715.07. The Francis patent is therefore inapplicable as § 102 prior art, and applicants therefore respectfully request that the rejection under § 102 be reconsidered and withdrawn.

No fee is believed to be due with this filing, however, if a fees becomes due the Commissioner is hereby authorized to deduct the fee(s) from Deposit Account No. 500624.

Respectfully submitted,

Fulbright & Jaworski L.L.P.

By 

C. Andrew Im
Reg. No. 40,946
Attorney for Applicants

666 Fifth Avenue
New York, NY 10103
(212) 318-3359
(212) 318-3400 (fax)